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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

February 2009 Grand Jury

09CR 4205 JM

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
							UNITED STATES OF AMERICA,	)	Case No.					
)						
							Plaintiff,	)	<u>I N D I C T M E N T</u>					
)						
							v.	)	Title 18, U.S.C., Sec. 371 -					
								)	Conspiracy; Title 18, U.S.C.,					
							JEFFREY STEVEN GIRANDOLA (1),	)	Sec. 1030(a)(4) - Unlawfully					
							KAJOHN PHOMMAVONG (2),	)	Accessing a Computer with Intent					
								)	to Defraud; Title 18, U.S.C.,					
							Defendants.	)	Secs. 1029(a)(2) and (b)(1) -					
								)	Access Device Fraud; Title 18,					
								)	U.S.C., Sec. 1028A(a)(1) -					
								)	Aggravated Identity Theft;					
								)	Title 18, U.S.C., Sec. 2 - Aiding					
								)	and Abetting					

The grand jury charges:

Count 1

[18 U.S.C. § 371]

At all relevant times:

1. The United States Department of Defense ("DoD"), Defense Finance and Accounting Service ("DFAS"), provides an Internet accessible secure website to DoD employees, including members of the United States Armed Forces, to view and change information related to their payroll and tax information. This service is known as DFAS MyPay. Among other things, through DFAS MyPay, DoD employees can direct their payroll deposits into personal bank accounts. The DFAS MyPay computer server physically is located in Mechanicsburg, Pennsylvania.

MDD:em:San Diego
11/13/09

1 2. Independent Living, located in Jupiter, Florida, is in the
2 business of selling products designed to assist senior citizens.
3 Independent Living maintains an account with a company named
4 CyberSource to handle their credit card processing and e-commerce
5 business.

6 3. Evolution Management, Green Dot Corporation, MoneyTree and
7 Buy Right are companies which are in the business of providing pre-
8 paid credit cards to their customers.

9 4. "Peer-to-Peer" or "P2P" software programs allow their users
10 to share data with other users of that software. Most P2P software
11 is free and available to download to anyone with a computer and an
12 Internet connection. After installation, the user can search all
13 files made available for sharing by any other users of that program
14 and download files of interest. Users can place files that the user
15 wants to share into a folder on the user's computer designated for
16 sharing. It is not unusual, however, for users to download corrupt
17 P2P programs or to misconfigure the software and unintentionally allow
18 all of the files on their computer to be shared to the community.

19 5. Beginning at an unknown date, but at least by on or about
20 November 22, 2005, and continuing up to and including on or about
21 September 12, 2006, within the Southern District of California, and
22 elsewhere, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG
23 knowingly conspired and agreed with each other and with other persons
24 known and unknown to the Grand Jury to commit offenses against the
25 United States: to wit; to access protected computers without
26 authority, with intent to defraud, and by means of such conduct
27 further the intended fraud and obtain anything of value, in violation
28 of Title 18, United States Code, Section 1030(a)(4); and, to use and

1 attempt to use one or more unauthorized access devices during any one-
2 year period and by such conduct obtain anything of value aggregating
3 \$1,000 or more during that period, in violation of Title 18, United
4 States Code, Section 1029(a)(2) and (b)(1).

5 Objects of the Conspiracy

6 6. It was an object of the conspiracy that the defendants would
7 obtain the user names or other login information and passwords or
8 personal identification numbers for online accounts at financial
9 institutions or other financial service entities and use that
10 information to unlawfully access the victim accounts and move money
11 from the victim accounts to accounts controlled by the defendants.

12 7. It also was an object of the conspiracy that the defendants,
13 after successfully moving funds to accounts that they controlled,
14 would fund prepaid credit cards with the stolen money and use the
15 cards to make purchases and to withdraw and attempt to withdraw cash
16 from various Automated Teller Machines.

17 Manner and Means of the Conspiracy

18 8. It was part of the conspiracy that the defendants would
19 install P2P software on computers under their control and search the
20 available P2P network for online financial account logins and
21 passwords.

22 9. It further was part of the conspiracy that the defendants
23 would establish prepaid credit card accounts in each of their names
24 at Evolution Management and at Green Dot and that defendant GIRANDOLA
25 would establish prepaid credit card accounts in his name at MoneyTree
26 and Buy Right.

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1 10. It further was part of the conspiracy that the defendants
2 would use the login and password information that they obtained to
3 access DFAS MyPay accounts without authority and redirect and attempt
4 to redirect DoD payroll deposits to their prepaid credit card accounts
5 at Evolution Management and at Green Dot.

6 11. It further was part of the conspiracy that the defendants
7 accessed without authority the online bank account of Independent
8 Living and transferred funds to their prepaid credit card accounts at
9 Evolution Management and to defendant GIRANDOLA's accounts at
10 MoneyTree and at Buy Right.

11 12. It further was part of the conspiracy that the defendants
12 used and attempted to use their prepaid credit cards, which were
13 funded with stolen funds, at various locations in the Southern
14 District of California to make purchases and to withdraw and attempt
15 to withdraw cash.

16 13. It further was part of the conspiracy that the defendants
17 successfully transferred approximately \$19,967.43 in illegally
18 obtained funds from DFAS MyPay accounts and from Independent Living
19 to their prepaid credit card accounts; one DFAS transfer of
20 approximately \$739.85 was halted in transit.

21 Acts in Furtherance of the Conspiracy

22 14. The following acts, among others, were done to effect an
23 object of the conspiracy, within the Southern District of California
24 and elsewhere:

25 a. On or about November 22, 2005, from the residence of
26 defendant PHOMMAVONG in San Diego, California, the DFAS MyPay
27 account of victim W.M., of the United States Air Force, was
28 accessed without authority and the direct deposit information

1 successfully changed to direct his next paycheck, in the amount
2 of \$1,193.72, to a Green Dot prepaid credit card account in the
3 name of defendant GIRANDOLA.

4 b. On or about January 5, 2006, from an unknown location in
5 San Diego, California, the defendants accessed without authority
6 the DFAS MyPay account of victim B.A., a civilian employee of
7 the United States Navy, and successfully redirected his next
8 paycheck, in the amount of \$1,233.43, to defendant GIRANDOLA's
9 Green Dot account.

10 c. On or about July 9, 2006, from an unknown location in San
11 Diego, California, the defendants accessed without authority the
12 DFAS MyPay account of victim A.H., of the United States Air
13 Force, and redirected his next paycheck, in the amount of
14 \$1,429.45, to the Evolution Management prepaid credit card
15 account in the name of defendant GIRANDOLA.

16 d. On or about August 12, 2006, from an unknown location in
17 San Diego, California, the defendants accessed without authority
18 the DFAS MyPay account of victim A.H., of the United States Air
19 Force, and redirected his next paycheck, in the amount of
20 \$1,429.45, to the Evolution Management prepaid credit card
21 account in the name of defendant GIRANDOLA.

22 e. On or about August 15, 2006, from the residence of
23 defendant GIRANDOLA in San Diego, California, the DFAS MyPay
24 account of victim A.H., of the United States Air Force, was
25 accessed without authority.

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1 f. On or about September 1, 2006, from the residence of
2 defendant PHOMMAVONG in San Diego, California, the DFAS MyPay
3 account of victim A.H., of the United States Air Force, was
4 accessed without authority.

5 g. On or about August 11, 2006, from an unknown location in
6 San Diego, California, the defendants accessed without authority
7 the DFAS MyPay account of victim J.N., of the United States
8 Marine Corps, and redirected a portion of his next paycheck, in
9 the amount of \$181.38 to the Evolution Management prepaid credit
10 card account in the name of defendant PHOMMAVONG.

11 h. On or about September 1, 2006, from the residence of
12 defendant PHOMMAVONG in San Diego, California, the DFAS MyPay
13 account of victim J.N., of the United States Marine Corps, was
14 accessed without authority.

15 i. On or about September 1, 2006, from the residence of
16 defendant PHOMMAVONG in San Diego, California, the DFAS MyPay
17 account of victim R.P., retired from the United States Air
18 Force, was accessed without authority and the direct deposit
19 information changed to direct his next paycheck, in the amount
20 of \$739.85, to a Green Dot prepaid credit card account in the
21 name of defendant PHOMMAVONG; the transfer was prevented by DFAS
22 security.

23 j. On or about September 8, 2006, from the residence of
24 defendant GIRANDOLA in San Diego, California, the bank account
25 of Independent Living was accessed without authority and
26 \$2,500.00 transferred to a MoneyTree Mastercard prepaid credit
27 card account of defendant GIRANDOLA.

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1 k. On or about September 9, 2006, from the residence of
2 defendant GIRANDOLA in San Diego, California, the bank account
3 of Independent Living was accessed without authority and
4 \$2,000.00 transferred to the Evolution Management prepaid credit
5 card account of defendant PHOMMAVONG.

6 l. On or about September 9, 2006, from the residence of
7 defendant GIRANDOLA in San Diego, California, the bank account
8 of Independent Living was accessed without authority and
9 \$5,000.00 transferred to the Evolution Management prepaid credit
10 card account of defendant GIRANDOLA.

11 m. On or about September 9, 2006, from the residence of
12 defendant GIRANDOLA in San Diego, California, the bank account
13 of Independent Living was accessed without authority and
14 \$5,000.00 transferred to a Buy Right Mastercard prepaid credit
15 card account of defendant GIRANDOLA.

16 All in violation of Title 18, United States Code, Section 371.

17 Count 2

18 [18 U.S.C. §§ 1030(a)(4) and 2]

19 1. Paragraphs 1 through 5 of Count 1 are realleged and
20 incorporated herein by reference.

21 2. On or about November 22, 2005, within the Southern District
22 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
23 PHOMMAVONG knowingly and with intent to defraud accessed the DFAS
24 MyPay computer, a "protected computer" within the meaning of Title 18,
25 United States Code, Section 1030(e)(2), without authorization and by
26 means of such conduct furthered the intended fraud and obtained
27 anything of value, to wit: the re-direction of the paycheck of
28 victim W.M., of the United States Air Force, in the amount of

1 \$1,193.72, to a Green Dot prepaid credit card account in the name of
2 defendant GIRANDOLA; in violation of Title 18, United States Code,
3 Sections 1030(a)(4) and 2.

4 Count 3

5 [18 U.S.C. §§ 1030(a)(4) and 2]

6 1. Paragraphs 1 through 5 of Count 1 are realleged and
7 incorporated herein by reference.

8 2. On or about January 5, 2006, within the Southern District
9 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
10 PHOMMAVONG knowingly and with intent to defraud accessed the DFAS
11 MyPay computer, a "protected computer" within the meaning of Title 18,
12 United States Code, Section 1030(e)(2), without authorization and by
13 means of such conduct furthered the intended fraud and obtained
14 anything of value, to wit: the re-direction of the paycheck of
15 victim B.A., a civilian employee of the United States Navy, in
16 the amount of \$1,233.43, to a Green Dot prepaid credit card
17 account in the name of defendant GIRANDOLA; in violation of Title 18,
18 United States Code, Sections 1030(a)(4) and 2.

19 Count 4

20 [18 U.S.C. §§ 1030(a)(4) and 2]

21 1. Paragraphs 1 through 5 of Count 1 are realleged and
22 incorporated herein by reference.

23 2. On or about July 9, 2006, within the Southern District of
24 California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG
25 knowingly and with intent to defraud accessed the DFAS MyPay computer,
26 a "protected computer" within the meaning of Title 18, United States
27 Code, Section 1030(e)(2), without authorization and by means of such
28 conduct furthered the intended fraud and obtained anything of value,

1 to wit: the re-direction of the paycheck of victim A.H., of
2 the United States Air Force, in the amount of \$1,429.45, to an
3 Evolution Management prepaid credit card account in the name of
4 defendant GIRANDOLA; in violation of Title 18, United States Code,
5 Sections 1030(a)(4) and 2.

6 Count 5

7 [18 U.S.C. §§ 1030(a)(4) and 2]

8 1. Paragraphs 1 through 5 of Count 1 are realleged and
9 incorporated herein by reference.

10 2. On or about August 11, 2006, within the Southern District
11 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
12 PHOMMAVONG knowingly and with intent to defraud accessed the DFAS
13 MyPay computer, a "protected computer" within the meaning of Title 18,
14 United States Code, Section 1030(e)(2), without authorization and by
15 means of such conduct furthered the intended fraud and obtained
16 anything of value, to wit: the re-direction of a portion of the
17 paycheck of victim J.N., of the United States Marine Corps, in the
18 amount of \$181.38, to an Evolution Management prepaid credit card
19 account in the name of defendant PHOMMAVONG; in violation of Title 18,
20 United States Code, Sections 1030(a)(4) and 2.

21 Count 6

22 [18 U.S.C. §§ 1030(a)(4) and 2]

23 1. Paragraphs 1 through 5 of Count 1 are realleged and
24 incorporated herein by reference.

25 2. On or about August 12, 2006, within the Southern District
26 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
27 PHOMMAVONG knowingly and with intent to defraud accessed the DFAS
28 MyPay computer, a "protected computer" within the meaning of Title 18,

1 United States Code, Section 1030(e)(2), without authorization and by
2 means of such conduct furthered the intended fraud and obtained
3 anything of value, to wit: the re-direction of the paycheck of
4 victim A.H., of the United States Air Force, in the amount of
5 \$1,429.45, to an Evolution Management prepaid credit card account
6 in the name of defendant GIRANDOLA; in violation of Title 18,
7 United States Code, Sections 1030(a)(4) and 2.

8 Count 7

9 [18 U.S.C. §§ 1030(a)(4) and 2]

10 1. Paragraphs 1 through 5 of Count 1 are realleged and
11 incorporated herein by reference.

12 2. On or about September 8, 2006, within the Southern District
13 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
14 PHOMMAVONG knowingly and with intent to defraud accessed the computer
15 of CyberSource, a "protected computer" within the meaning of Title 18,
16 United States Code, Section 1030(e)(2), without authorization and by
17 means of such conduct furthered the intended fraud and obtained
18 anything of value, to wit: the transfer of \$2,500 from the account of
19 victim Independent Living to a MoneyTree prepaid Mastercard credit
20 card account in the name of defendant GIRANDOLA; in violation of
21 Title 18, United States Code, Sections 1030(a)(4) and 2.

22 Count 8

23 [18 U.S.C. §§ 1030(a)(4) and 2]

24 1. Paragraphs 1 through 5 of Count 1 are realleged and
25 incorporated herein by reference.

26 2. On or about September 9, 2006, within the Southern District
27 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
28 PHOMMAVONG knowingly and with intent to defraud accessed the computer

1 of CyberSource, a "protected computer" within the meaning of Title 18,
2 United States Code, Section 1030(e)(2), without authorization and by
3 means of such conduct furthered the intended fraud and obtained
4 anything of value, to wit: the transfer of \$5,000 from the account of
5 victim Independent Living to an Evolution Management prepaid credit
6 card account in the name of defendant GIRANDOLA; in violation of
7 Title 18, United States Code, Sections 1030(a)(4) and 2.

8 Count 9

9 [18 U.S.C. §§ 1030(a)(4) and 2]

10 1. Paragraphs 1 through 5 of Count 1 are realleged and
11 incorporated herein by reference.

12 2. On or about September 9, 2006, within the Southern District
13 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
14 PHOMMAVONG knowingly and with intent to defraud accessed the computer
15 of CyberSource, a "protected computer" within the meaning of Title 18,
16 United States Code, Section 1030(e)(2), without authorization and by
17 means of such conduct furthered the intended fraud and obtained
18 anything of value, to wit: the transfer of \$5,000 from the account of
19 victim Independent Living to a Buy Right prepaid Mastercard credit
20 card account in the name of defendant GIRANDOLA; in violation of
21 Title 18, United States Code, Sections 1030(a)(4) and 2.

22 Count 10

23 [18 U.S.C. §§ 1030(a)(4) and 2]

24 1. Paragraphs 1 through 5 of Count 1 are realleged and
25 incorporated herein by reference.

26 2. On or about September 9, 2006, within the Southern District
27 of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
28 PHOMMAVONG knowingly and with intent to defraud accessed the computer

1 of CyberSource, a "protected computer" within the meaning of Title 18,
2 United States Code, Section 1030(e)(2), without authorization and by
3 means of such conduct furthered the intended fraud and obtained
4 anything of value, to wit: the transfer of \$2,000 from the account of
5 victim Independent Living to an Evolution Management prepaid credit
6 card account in the name of defendant PHOMMAVONG; in violation of
7 Title 18, United States Code, Sections 1030(a)(4) and 2.

8 Count 11

9 [18 U.S.C. §§ 1029(a)(2), 1029(b)(1), and 2]

10 1. Paragraphs 1 through 5 of Count 1 are realleged and
11 incorporated herein by reference.

12 2. Beginning on or about November 22 2005, and continuing up
13 to and including on or about September 9, 2006, within the Southern
14 District of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN
15 PHOMMAVONG, knowingly and with intent to defraud used and attempted
16 to use one or more unauthorized access devices, specifically, the
17 login information and passwords of victims W.M., B.A., A.H., J.N., and
18 R.P., who were civilian employees or current and retired members of
19 the United States Armed Forces, to the DFAS MyPay computer, and the
20 login information and password of victim Independent Living to the
21 CyberSource computer, that had been stolen or obtained with intent to
22 defraud, and by such conduct obtained and attempted to obtain anything
23 of value aggregating \$1,000 or more during that period; to wit,
24 approximately \$20,707.28 in re-directions of direct deposits and in
25 transfers of funds or credits; in and affecting interstate and foreign
26 commerce; all in violation of Title 18, United States Code,
27 Sections 1029(a)(2), 1029(b)(1), and 2.

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Count 12

[18 U.S.C. §§ 1028A(a)(1) and 2]

1. Paragraphs 1 through 5 of Count 1 are realleged and incorporated herein by reference.

2. On or about November 22, 2005, within the Southern District of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG, during and in relation to a felony violation of Title 18, United States Code, Section 1030(a)(4), as charged at Count 2 herein, knowingly used, without lawful authority, a means of identification of another person, to wit, the login information and password of victim W.M., of the United States Air Force, to the DFAS MyPay computer system; in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

Count 13

[18 U.S.C. §§ 1028A(a)(1) and 2]

1. Paragraphs 1 through 5 of Count 1 are realleged and incorporated herein by reference.

2. On or about January 5, 2006, within the Southern District of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG, during and in relation to a felony violation of Title 18, United States Code, Section 1030(a)(4), as charged at Count 3 herein, knowingly used, without lawful authority, a means of identification of another person, to wit, the login information and password of victim B.A., a civilian employee of the United States Navy, to the DFAS MyPay computer system; in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

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Count 14

[18 U.S.C. §§ 1028A(a)(1) and 2]

1. Paragraphs 1 through 5 of Count 1 are realleged and incorporated herein by reference.

2. On or about July 9, 2006, within the Southern District of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG, during and in relation to a felony violation of Title 18, United States Code, Section 1030(a)(4), as charged at Count 4 herein, knowingly used, without lawful authority, a means of identification of another person, to wit, the login information and password of victim A.H., of the United States Air Force, to the DFAS MyPay computer system; in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

Count 15

[18 U.S.C. §§ 1028A(a)(1) and 2]

1. Paragraphs 1 through 5 of Count 1 are realleged and incorporated herein by reference.

2. On or about August 11, 2006, within the Southern District of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG, during and in relation to a felony violation of Title 18, United States Code, Section 1030(a)(4), as charged at Count 5 herein, knowingly used, without lawful authority, a means of identification of another person, to wit, the login information and password of victim J.N., of the United States Marine Corps, to the DFAS MyPay computer system; in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

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Count 16

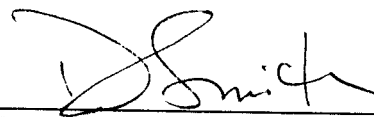
[18 U.S.C. §§ 1028A(a)(1) and 2]

1. Paragraphs 1 through 5 of Count 1 are realleged and incorporated herein by reference.

2. On or about August 12, 2006, within the Southern District of California, defendants JEFFREY STEVEN GIRANDOLA and KAJOHN PHOMMAVONG, during and in relation to a felony violation of Title 18, United States Code, Section 1030(a)(4), as charged at Count 6 herein, knowingly used, without lawful authority, a means of identification of another person, to wit, the login information and password of victim A.H., of the United States Air Force, to the DFAS MyPay computer system; in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

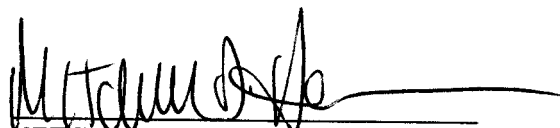
DATED: November 20, 2009.

A TRUE BILL:


Foreperson

KAREN P. HEWITT
United States Attorney

By:


MITCHELL D. DEMBIN
Assistant U. S. Attorney